

ENTERED

September 13, 2019

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

KV DENTAL, PA AND EMERALD
VENTURES, LLC DBA AAA PLAZA AND
FONDREN PLAZA,

Plaintiff,

VS.

SENECA SPECIALTY INSURANCE
COMPANY, INC., *et al*,

Defendants.

CIVIL ACTION NO. 4:19-CV-193

ORDER

Before the Court are Defendant Seneca Specialty Insurance Company's Motion to Dismiss (the "Motion") (Doc. #4) and Plaintiff's Response (Doc. #7). Having reviewed the parties' arguments and applicable legal authority, the Court grants in part and denies in part the Motion.

This dispute arises from the denial of insurance coverage concerning a claim for alleged property damage caused by a storm. Doc. #1, Ex. B. Plaintiff filed suit on November 27, 2018, in the 157th District Court of Harris County, Texas. Then, on January 17, 2019, Defendants removed the matter to this Court.

Now, Defendant Seneca Specialty Insurance Company, Inc. ("Seneca") moves to dismiss its claims adjuster Defendant Frederic Keith Jefferson ("Jefferson") from this action pursuant to Tex. Ins. Code Ann. § 542A.006 (West Supp. 2019). In response, Plaintiff concedes that "Jefferson shall be dismissed by the court as per Texas Insurance Code Sections 542A.006(b) and (c)" because "Seneca has accepted liability for Defendant Jefferson." Doc. #7 at 1.

Because “Texas law requires [dismissal] when an insurer has accepted its agent’s liability through written notice to the insureds” and Plaintiff does not dispute the receipt of such a written notice, the Court grants in part the Motion and dismisses Defendant Jefferson from this action pursuant to Section 542A.006 of the Texas Insurance Code. *Vyas v. Atain Specialty Ins. Co.*, 380 F. Supp. 3d 609, 613 (S.D. Tex. 2019).

For the foregoing reasons, the Court grants in part and denies in part the Motion. The Motion is GRANTED IN PART pursuant to Section 542A.006 of the Texas Insurance Code, and Defendant Frederic Keith Jefferson is hereby DISMISSED from this action. In its Motion, Seneca asserts alternative arguments advocating why Defendant Jefferson must be dismissed from this action. However, the Court need not reach those arguments because the parties agree that dismissal is proper pursuant to Section 542A.006. Notably, the specific relief requested in the Motion is dismissal of Defendant Jefferson. To the extent Seneca believes that these alternative arguments affect its own liability, if any, in this action, Seneca may re-urge those arguments in a separate motion. Accordingly, Seneca’s alternative arguments are hereby DENIED.

It is so ORDERED.

SEP 13 2019

Date

The Honorable Alfred H. Bennett
United States District Judge

A handwritten signature in black ink, appearing to read "Alfred H. Bennett", is written over a stylized, abstract line drawing that resembles a signature itself.